

PUBLIC NOTICE
Hawaii State Request for New Waiver

Notice is hereby given for the following proposed waiver to procurement requirements for youth summer employment providers under the American Recovery and Reinvestment Act ("ARRA")

The public is invited to review and comment on the attached draft of the waiver by May 11, 2009. Interested persons may present their comments, written or oral, to:

Mr. Stanford Fichtman, Employment Analyst
Keelikolani Building
830 Punchbowl Street, Suite 417
Honolulu, Hawaii 96813

Phone: 808-586-8672
Fax: 808-586-8674
E-mail: stanford.j.fichtman@hawaii.gov

Dated: April 28, 2009


JAMES P. HARDWAY
Executive Director
Workforce Development Council

LINDA LINGLE
GOVERNOR



DARWIN L.D. CHING
DIRECTOR

COLLEEN Y. LaCLAIR
DEPUTY DIRECTOR

**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
www.hawaii.gov/labor
Phone: (808) 586-8842 / Fax: (808) 586-9099
Email: dlir.director@hawaii.gov

April 23, 2009

Richard Trigg
Regional Administrator
U.S. Department of Labor
Employment and Training Administration
P. O. Box 193767
San Francisco, CA 94119-3767

Dear Mr. Trigg:

Enclosed for your consideration is Hawaii's formal request to waive Youth Summer Employment provider procurement requirements under the Workforce Investment Act ("WIA") and its regulations. This request to waive WIA requirements pertains only to funding authorized under the American Recovery and Reinvestment Act of 2009.

Thank you for your consideration to approve this waiver. Should you have any questions, please do not hesitate to contact Mr. James Hardway, Executive Director, Hawaii Workforce Development Council, at jhardway@hawaii.gov or at 808-586-8672.

Sincerely,

A handwritten signature in blue ink that reads "Darwin L.D. Ching".

DARWIN L.D. CHING

Enclosure

**Hawaii State Request for New Waiver
Request to Waive Procurement Requirements for Youth Summer Employment
Providers under the Recovery Act**

Submitted April 23, 2009

The Hawaii Workforce Development Council ("WDC"), as well as the Workforce Development Division ("WDD") of the Department of Labor and Industrial Relations, as the State of Hawaii's administrator for the Workforce Investment Act ("WIA") and the American Recovery and Reinvestment Act ("ARRA"), is submitting a waiver related to procurement requirements for youth services in WIA section 123 for approval from the U.S. Department of Labor ("DOL"). This waiver is a request to conduct an expedited, limited competition to select service providers.

The WDC has consulted with the LWIBs and the WDD regarding the need for this waiver. The City and County of Oahu will not be utilizing this waiver as they are local grant recipients to administer the summer youth employment program themselves. However, the Counties of Hawaii, Kauai, and Maui, as well as the WDD, have expressed concern over their ability to implement the competitive procurement for summer youth funds within the timeframe required under ARRA. This request is meant to give greater flexibility to the LWIBs in procurement process in order to ensure the LWIBs are successful in their effort to quickly implement the procurement process within the allotted time frame. This effort will make certain that enrollment of youth into the summer work programs will not be unnecessarily delayed.

Justification:

Certain LWIBs, as well as the WDD, have expressed concern that in some areas of the state there are barriers to rapid implementation of the summer youth employment program. This is due in large part to insufficient time to make a selection on a competitive basis. Therefore, we are asking for flexibility in how they procure when there may be only one or two service providers in the local area.

1. Identify the statutory or regulatory requirements to be waived.

The Workforce Investment Act ("WIA") Section 123, provides that all WIA youth service providers shall be selected on a competitive basis. 20 CFR 664.610 further provides that if summer employment opportunities are provided other than by the grant recipient or fiscal agent, the service provider must be selected on a competitive basis.

The total youth funds allocated to all counties is \$2,480,322. With the exception of the City and County of Honolulu, all other county WIB's will be participating in the waiver. With the subtraction of \$1,483,081 from the total to account for the portion the City and County of Honolulu receives, the three counties participating are receiving a total of

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\$997,241. The total amount of youth program funding each participating county will use of the total to all counties is:

Maui County: 8.9%
Hawaii County: 26%
Kauai County: 5.1%

It is with the upmost urgency we ask for this waiver request to be approved as quickly as possible so that Hawaii can quickly provide the WIBs with procurement guidelines that meet current state and local law, and comply with OMB requirements codified in 29 CFR Parts 95.40- 95.48 and 97.36. The state is not looking to circumvent the process, but rather to provide assistance to a local WIB when they have demonstrated a unique need to utilize a particular service provider.

2. Describe the actions that the State or local area, as appropriate, has undertaken to remove State or local statutory or regulatory barriers.

There are no barriers because state and local procurement laws allow for expedited procurement under the timeframe imposed by ARRA for the selection of youth grants.

3. Describe the goals that the State or local area in the State, as appropriate, intends to achieve as a result of the waiver and expected programmatic outcomes.

If approved, the waiver will enable neighbor island counties to select an operator quickly without a competitive selection process. The summer break in Hawaii for public school students is only six weeks long this year beginning in mid-June. To implement the summer employment program by the beginning of the summer break requires that the summer employment operator be selected immediately. There will be insufficient time to prepare, conduct, and complete a Request for Proposals solicitation.

However, the counties will be required to comply with their county procurement requirements in selecting a summer employment operator. The waiver requested will apply to the WIA youth summer employment program authorized under ARRA 2009.

The ARRA and the directives from the United States Department of Labor ("USDOL") issued in response to the ARRA 2009 make clear that transparency and accountability are absolutely required as to the expenditure of ARRA 2009 funds. Hawaii assures USDOL that a goal is to be sure that the ARRA monies are accounted for through a transparent manner.

4. Describe the individuals impacted by the waiver.

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A granting of this waiver would be in alignment with the WIBs strategic goal of streamlining the procurement process so there is an increased focus on the enrollment of youth into the summer program under the Recovery Act.

5. Describe the process used to monitor the progress in implementing such a waiver.

Implementation of the waiver will be monitored through site visits to ensure compliance with all applicable requirements. The Hawaii Workforce Development Council has been apprised of the waiver request and supports the waiver.

6. Describe the process used to give local boards the opportunity to comment on the waiver request.

This waiver request is initiated by the Counties of Hawaii, Maui, and Kauai and their WIBs. The Workforce Development Council reviews the comments from the boards to ensure that they are in agreement with the request.

7. Describe the process for public comment.

A discussion piece on waivers in general and this waiver in particular will be disseminated with the meeting packet for the next Council meeting. The agenda is posted on the Council website prior to the meeting and the public may comment.